

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Bobby Mayberry,	:	
	:	
Plaintiff	:	Civil Action 2:10-cv-00204
	:	
v.	:	Judge Sargus
	:	
Adrias Barnett	:	Magistrate Judge Abel
and Paul Rybicki,	:	
	:	
Defendants	:	
	:	

ORDER

Plaintiff Bobby Mayberry's motion for leave to proceed *in forma pauperis* under 28 U.S.C. §1915(a)(1) and (2) is GRANTED. Plaintiff is required to pay the full amount of the Court's \$350 filing fee. 28 U.S.C. §1915(b)(1).

Plaintiff Mayberry's affidavit reveals that he currently possesses the sum of \$11.76 in his prison account which is insufficient to pay the full filing fee. His application indicates that his average monthly balance for a six-month period prior to filing his application to proceed *in forma pauperis* was \$22.93.

Pursuant to 28 U.S.C. §1915(b)(1), the custodian of plaintiff Bobby Mayberry's inmate trust account (DYS# 212632) at the institution where he now resides is directed to submit to the Clerk of the United States District Court for the Southern District of Ohio, as an initial partial payment, twenty percent (20%) of the greater of either the average monthly deposits to the inmate trust account or the average monthly balance in

the inmate trust account, for the six (6) months immediately preceding the filing of the complaint.

After full payment of the initial partial filing fee, the custodian shall submit twenty percent (20%) of plaintiff Mayberry's preceding monthly income credited to the account, but only when the amount in the account exceeds ten dollars (\$10), until the full fees of three hundred and fifty dollars (\$350) have been paid to the clerk of this court. 28 U.S.C. §1915(b)(2). See, *McGore v. Wrigglesworth*, 114 F.3d 601, 607 (6th Cir. 1997).

Checks should be made payable to: Clerk, United States District Court. The checks should be sent to:

Prisoner Accounts Receivable
260 U.S. Courthouse
85 Marconi Boulevard
Columbus, OH 43215

The prisoner's name and this case number must be included on each check.

A prisoner may not be prohibited from bringing a civil action because he has no assets and no means to pay the initial filing fee. 28 U.S.C. §1915(b)(4). If plaintiff does not currently possess the funds to pay the initial filing fee, the amount assessed by this Court will be collected from plaintiff's prison account when such funds become available.

WHEREUPON, it is ORDERED that plaintiff be allowed to prosecute his action without prepayment of fees or costs and that judicial officers who render services in this action shall do so as if the costs had been prepaid.

The Clerk of Court is DIRECTED to mail a courtesy copy of the complaint and a copy of this Order to the Attorney General of Ohio, Corrections Litigation Section, 150 East Gay St., 16th , Columbus, OH 43215.

IT IS FURTHER ORDERED that the United States Marshal serve by certified mail upon each defendant named in part III, B and C of the form civil rights complaint a summons, a copy of the complaint, and a copy of this Order.

Each defendant is ORDERED to answer or otherwise respond to the complaint within forty-five (45) days after being served with a copy of the complaint and summons.

The Clerk of Court is DIRECTED to mail a copy of this Order and the attached instructions, which are hereby incorporated herein, to the plaintiff and the prison cashier's office. The Clerk is FURTHER DIRECTED to forward a copy of this Order to the Court's financial office in Columbus.

s/Mark R. Abel
United States Magistrate Judge

**INSTRUCTIONS FOR PAYMENT OF PRISONER FILING FEE AND
SUBSEQUENT INSTALLMENT PAYMENTS**

The prisoner shown as the plaintiff on the attached order has filed a civil action in forma pauperis in this court and owes the court a filing fee. Pursuant to 28 U.S.C. §1915(b)(1) and (2), the fee is to be paid as follows:

The initial partial fee listed on the attached order should be deducted by the prison cashier's office from the prisoner's account, when funds are available therein, until the initial partial fee is paid. A check (or checks) in the appropriate amount(s) should be attached to a form like that accompanying these instructions and sent to the address indicated below.

Following the payment of the initial partial fee and continuing thereafter until the full fee has been paid, monthly payments of 20% of the preceding month's income credited to the prisoner's account should be deducted and forwarded to the court each time the amount in the account exceeds \$10.

If the prisoner has filed more than one complaint in this district, (s)he is required to pay a fee in each case. The prison cashier's office shall make the monthly calculations and payments for each case in which it receives an order granting in forma pauperis status and these instructions. **The prisoner's name and case number must be noted on each remittance.**

Checks are to be made payable to:

Clerk, U.S. District Court

Checks are to be sent to:

**Prisoner Accounts Receivable
260 U.S. Courthouse
85 Marconi Blvd.
Columbus, OH 43215**